

ARGUMENTS/REMARKS

Claims 1 through 6, 8 through 15 and 17 through 25 remain pending in the present application. Claims 26 through 28 are new.

In the Office Action mailed on April 19, 2006, claims 1 through 6, 8 through 15 and 17 through 25 were rejected under 35 U.S.C. 112, first paragraph as failing to comply with the enablement requirement. Specifically, the action stated that it is not clear as to what the "center" refers in regard to the demarcation line. It is not clear as to whether the center is a center when positioned "east to west", north to south or if the center is center of the pad. Applicant respectfully disagrees with this rejection.

In the brassiere art, a reasonable interpretation of the claim is that a center of the panel is located at a center portion of the surface of the cup when viewed from the front (or rear) of the cup. Any other interpretation is not reasonable as understood by one of ordinary skill. Additionally, the demarcation lines, as indicated in the specification is not visible from the front of the pad. Reconsideration and withdrawal of the rejection are respectfully requested.

In the Office Action, claims 1 through 6, 8 through 15 and 17 through 25 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite as failing to particularly point out the subject matter which the application regards as the invention. The office action states the "it is not clear as to what the 'center portion' of the pad refers or as to what the 'metes and bounds' of the recitation encompass". Applicant refers to page 9 at line 14. The reference to the center portion of the pad is as a reasonable person and a person of ordinary skill in the art would interpret the claimed language.

Regarding claim 22, the appropriate amendment has been made. Reconsideration and withdrawal of the 35 U.S.C. 112, second paragraph, rejection are respectfully requested.

Regarding claim 23, the Office Action states that "it is not clear as to how the compressed portion forms a cup shape or as to how it is a cup shape. Again, Applicant references the application at pages 8 at line 12, through page 10 at line 17 and in the Figures at Fig. 3 through 6. Figures 3 through 6 disclose and the claimed subject matter and provide appropriate support.

In claims 24 and 25, the Office Action states that there is no support in the specification for the "upper portion" and the "lower portion". Applicant refers to page 2 of the application beginning at the paragraph at line 15. Support for the amendment is clearly shown. Reconsideration and withdrawal of the 35 U.S.C. 112, second paragraph, rejection are respectfully requested.

In the Final Office Action mailed on July 27, 2005, claims 1 through 20 were rejected under 35 U.S.C. 102(b) being anticipated by U.S. Patent No. 3,934,593 to Mellinger (hereinafter "the Mellinger patent"). Applicant respectfully disagree.

The Office Action states that "Mellinger includes a line of demarcation (at 24; see Col. 2, line 11 and figure 3) that separates the reduced loft area from the rest of the breast pad. (Page 3)

Independent claim 1 provides a molded breast pad having a demarcation line between the first portion and the second portion that is formed on the body-contacting surface and that is not visible on a wearer's breast during wear. Also, the demarcation line running through a center portion of the pad.

The Mellinger patent is directed to breast supports that are each separately applied to the breasts of the wearer. The breast supports are each flat elements, as shown in Fig. 2, that are placed on the underside of each breast of the wearer, as shown in Fig. 3. Each breast support is formed such that a narrow visible border 14 is formed between cushion 16 and wide border 10. Border 14 is visible on the outer surface of the of the breast support during wear (Fig.3). Further, as shown in Fig. 3, a line of demarcation 24 is visible when the supports are viewed during wear. Line of demarcation 24, as shown in Fig. 1 and 3, has an arcuate configuration at the lower edge of the breast pads.

Thus, as shown in Figs. 1 and 3 of the Mellinger patent, line of demarcation 24 is visible on the pad and during wear. Additionally, the line of demarcation 24 does not run through a center portion of the pad, as provided in claim 1. In contrast, line of demarcation runs along the edge of the pad. Reconsideration and withdrawal of the 35 U.S.C. 102(b) rejection are respectfully requested.

Independent claim 10 provides a breast pad having a demarcation line separating the first part from the second part that is formed on the body-contacting surface and is not visible on a wearer's breast during wear. Also, the demarcation line runs along a center portion of the pad.

Again, as shown in Figs. 1 and 3 of the Mellinger patent, the line of demarcation 24 is visible on the support during wear. Further, the line of demarcation 24 does not run along a center portion of the pad, as claimed. In contrast, line of demarcation runs along the edge of the pad. Reconsideration and withdrawal of the 35 U.S.C. 102(b) rejection are respectfully requested.

Independent method claim 19 provides a method of forming a molded breast pad having a first material and a second material of different lofts that are placed in a molding apparatus to form one or more three-dimensional breast

pads having three-dimensional cup shapes, with a portion thereof being effected such that it has a relatively reduced loft. The reduced loft portion forms a demarcation line with the rest of said three dimensional breast pad that is not visible on a wearer's breast during wear. The demarcation line runs along a center portion of the pad.

As shown in Figs. 1 and 2 of the Mellinger patent the breast supports are flat elements that lie in a plane until they are placed in the underside of the breast of the wearer. The supports do not form three-dimensional breast pads that have three-dimensional cup shapes, as in claim 10. Further, the line of demarcation 24, does not run along a center portion of the pad, as in claim 10. In contrast, line of demarcation runs along the edge of the pad. Reconsideration and withdrawal of the 35 U.S.C. 102(b) rejection are respectfully requested.

Independent claim 21 is directed to a molded breast pad for a brassiere having a body-contacting surface. Claim 21 provides that one or more first layers be formed from a first material having a first loft associated therewith; and one or more second layers being formed from a second material having a second loft associated therewith different from that of said first material. The molded breast pad is molded such that a first portion thereof is compressed relative to a second portion thereby forming a demarcation line between the first portion and the second portion. The demarcation line runs along a center portion of the pad.

The Mellinger patent, as discussed previously, does not disclose or suggest a molded breast pad that is molded such that a first portion thereof is compressed relative to a second portion thereby forming a demarcation line between the first portion and the second portion. The demarcation line running along a center portion of the pad. The Mellinger patent only discloses a pad having a line of demarcation that runs along the arcuate edge of the pad. The Mellinger patent does not disclose or suggest the newly claimed subject matter.

Independent claim 22 is directed to a molded breast pad for a brassiere having a body-contacting surface. Independent claim 22 provides that one or more first layers be formed from a first material having a first loft associated therewith; and one or more second layers be formed from a second material having a second loft associated therewith different from that of said first material. The molded breast pad is molded such that a first portion thereof is compressed relative to a second portion thereby forming a demarcation line between the first portion and the second portion that is formed on the body-contacting surface and that is not visible on a wearer's breast during wear. The demarcation line runs along a center portion of the pad.

The Mellinger patent, as discussed previously, does not disclose or suggest a molded breast pad that is molded such that a first portion thereof is compressed relative to a second portion thereby forming a demarcation line between the first portion and the second portion that is not visible on a wearer's breast during wear. In contrast as shown in Fig. 3, the line of demarcation 24 of the Mellinger patent is visible during wear. Further, the Mellinger patent does not disclose or suggest a demarcation line running along a center portion of the pad. In contrast, the Mellinger patent only discloses a pad having a line of demarcation that runs along the arcuate edge of the pad. The Mellinger patent does not disclose or suggest the newly claimed subject matter.

Independent claim 23 is directed to a molded breast pad for a brassiere having a body-contacting surface. Claim 23 provides that one or more first layers be formed from a first material having a first loft associated therewith; and one or more second layers be formed from a second material having a second loft associated therewith different from that of the first material. The molded breast pad is molded such that a first portion thereof is compressed relative to a second portion thereby forming a three-dimensional cup shape.

The Mellinger patent has breast supports that are each flat elements, as shown in Fig. 2, that are placed on the underside of each breast of the wearer, as

shown in Fig. 3. The breast supports are not formed such that they form a three-dimensional cup shape, as provided in claim 23. The Mellinger patent does not disclose or suggest the newly claimed subject matter.

Independent claim 24 is directed to a molded breast pad for a brassiere having a body-contacting surface. Claim 24 provides that one or more first layers be formed from a first material having a first loft associated therewith; and one or more second layers be formed from a second material having a second loft associated therewith different from that of the first material. The molded breast pad is molded such that a first portion thereof is compressed relative to a second portion thereby forming a three-dimensional cup shape. One of the first portion or the second portion is a first upper portion and the other of the first portion or second portion is a lower portion of the pad.

The Mellinger patent has breast supports are each flat elements, as shown in Fig. 2, that are placed on the underside of each breast of the wearer, as shown in Fig. 3. The breast supports are not formed such that they form a three-dimensional cup shape, as claimed. Further, the Mellinger patent does not disclose or suggest one of a first portion or a second portion being a first upper portion and the other of the first portion or the second portion being a lower portion of the pad. In contrast, the Mellinger patent only has two flat portions at 10 and near 12 that surround middle portion 16. The newly claimed subject matter is not disclosed or suggested in the Mellinger patent.

Independent claim 25 is directed to a molded breast pad for a brassiere having a body-contacting surface. Independent claim 25 provides that one or more first layers be formed from a first material having a first loft associated therewith; and one or more second layers be formed from a second material having a second loft associated therewith different from that of the first material. The molded breast pad is molded such that a first part thereof is compressed relative to a second part thereby forming a demarcation line

between the first part and the second part. Also, the demarcation line runs along a center portion of the pad, the first part being an first upper part and the second part being a second lower part.

The Mellinger patent has breast supports that each has a demarcation line 24 running along a lower arcuate edge thereof. Further, the demarcation line 24 does not run along a center portion of the pad where a first part is a first upper part and a second part is a second lower part. In contrast, the Mellinger patent only has two flat portions at 10 and near 12 that surround middle portion 16. The newly claimed subject matter is not disclosed or suggested in the Mellinger patent.

The independent claims are allowable and clearly define over the Mellinger patent and the cited prior art of record. Dependent claims 2 through 6, 8 through 9, 11 through 15 and 17 through 18 and 20, which depend from independent claims 1, 10 and 19 respectively, are also allowable.

New independent claim 26 is directed to a brassiere having a pair of breast receiving cups having two side panels. The molded breast pad is molded such that a first portion thereof is compressed relative to a second portion thereby forming a generally diagonal demarcation line between the first portion and the second portion that is formed on the body-contacting surface and that is not visible on a wearer's breast during wear. The demarcation line has two ends, one of the two ends proximate a center portion of the brassiere between the two breast-receiving cups and the other of the two ends proximate a side panel of one of the breast-receiving cups. The demarcation line traverses a central portion of the pad.

The Mellinger patent does not suggest or disclose a generally diagonal demarcation line between the first portion and the second portion, having one of its two ends proximate a center portion of the brassiere between the two breast-

receiving cups and the other of the two ends proximate a side panel of the brassiere. In contrast, the Mellinger patent discloses a strapless breast support having a line 24 that is visible from the facing portion of the pad that is upwardly concave. The Mellinger patent does not anticipate claim 26.

New independent claim 27 is directed to a molded breast pad. The molded breast pad is molded such that a first portion thereof is compressed relative to a second portion thereby forming a demarcation line between the first portion and a second portion that is formed on the body-contacting surface and that is not visible on a wearer's breast during wear. The demarcation line has two portions, an upwardly concave portion proximate a side panel of said brassiere and a upwardly convex portion proximate a center portion of the brassiere between the two breast-receiving cups.

The Mellinger patent does not suggest or disclose a demarcation line having two portions, an upwardly concave portion proximate a side panel of a brassiere and an upwardly convex portion proximate a center portion of the brassiere between the breast receiving cups. In contrast, the Mellinger patent discloses a strapless breast support having a line 24 that is visible from the facing portion of the pad that is upwardly concave. The Mellinger patent does not anticipate claim 27.

New independent claim 28 is directed to a molded breast pad. Claim 28 includes a molded breast pad that is molded such that a first portion thereof is compressed relative to a second portion thereby forming a demarcation line between the first portion and the second portion that is formed on the body-contacting surface and that is not visible on a wearer's breast during wear. The demarcation line has a sinusoidal pattern having an upwardly concave portion proximate a side panel of the brassiere and an upwardly convex portion proximate a center portion of the brassiere between the two breast-receiving

cups and the other of said two ends proximate a side panel of the breast-receiving cup. The demarcation line traverses a central portion of the pad.

The Mellinger patent does not suggest or disclose a demarcation line having a sinusoidal pattern having an upwardly concave portion proximate a side panel of a brassiere and an upwardly convex portion proximate a center portion of the brassiere between the breast receiving cups, the demarcation line traversing a central portion of the pad. In contrast, the Mellinger patent discloses a strapless breast support having a line 24 that is visible from the facing portion of the pad that is entirely upwardly concave. The Mellinger patent does not anticipate claim 28.

Applicant again notes that proper support is found in the specification including the figures for the newly presented claims.

New independent claims 26 through 28 are also allowable and clearly define over the Mellinger patent and the cited prior art of record.

In view of the foregoing, Applicant respectfully submits that all claims presented in the application patently distinguish over the cited prior art. Accordingly, Applicant respectfully requests favorable consideration and that this application be passed on to allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles N.J. Ruggiero", is written over a horizontal line.

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Date

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